



**MassHealth**  
**Nursing Facility Bulletin 175**  
**November 2022**

**TO:** Nursing Facilities Participating in MassHealth

**FROM:** Amanda Cassel Kraft, Assistant Secretary for MassHealth

**RE:** **COVID-19 Preparedness Program Payments**

### **Background**

This bulletin is being issued in accordance with 101 CMR 206.10(18): *Payments for Quality Improvements through COVID-19 Preparedness*. This bulletin applies to nursing facilities participating in the MassHealth program that seek payments for quality improvements through COVID-19 preparedness (“COVID-19 Preparedness Payments”) under 101 CMR 206.10(18)(b).

The Massachusetts Executive Office of Health and Human Services (EOHHS) may issue additional guidance on this topic as informed by the Massachusetts Department of Public Health (DPH), the Centers for Medicare & Medicaid Services (CMS), and the federal Centers for Disease Control and Prevention (CDC). Nursing facilities should also closely monitor updates from these agencies themselves.

### **Eligibility Criteria for COVID-19 Preparedness Payments**

In order for a nursing facility to be eligible for a COVID-19 Preparedness Payment under 101 CMR 206.10(18)(b), the facility must meet the criteria described below.

1. MassHealth determines, based on publicly available data accessed through the federal Payroll Based Journal reporting tool, that the nursing facility either
  - a. has an average HPPD of 3.58 or higher for the calendar quarter ending June 30, 2023; or
  - b. achieves a minimum 10% improvement in HPPD for the calendar quarter ending June 30, 2023, as compared to the calendar quarter ending December 31, 2022.
2. MassHealth determines, based on nursing facility survey data received from DPH, that the nursing facility has had no infection control deficiencies of an F-level or higher, identified by DPH surveys required by CMS, beginning with the date of the issuance of this bulletin, through June 30, 2023.
3. MassHealth determines, based on data accessed through the National Healthcare Safety Network (NHSN) that at least 90% of the nursing facility’s staff are up to date with their COVID-19 vaccination by January 1st, 2023.

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4. The nursing facility attests, in accordance with the attestation included here as Appendix A, to be submitted as directed by this bulletin, to ensuring continuous compliance with the following DPH requirements through June 30, 2023. Compliance with the following may be reviewed and audited by MassHealth or DPH at any time, including through DPH surveys:

- a. the nursing facility must offer all recommended COVID-19 and influenza vaccines to eligible residents and staff;
- b. the nursing facility must assign one or more individuals with training in infection prevention and control to provide on-site management of the infection prevention and control program;
- c. the nursing facility must
  - i. conduct *Infection Prevention and Control Assessments* using the CDC tool found at [www.cdc.gov/infectioncontrol/pdf/icar/lctcf.pdf](http://www.cdc.gov/infectioncontrol/pdf/icar/lctcf.pdf) at least quarterly;
  - ii. review such assessment findings with the facility's leadership team; and
  - iii. make an actionable plan to address any improvement areas, which includes a leader responsible for each area identified;
- d. the nursing facility must establish a written Respiratory Protection Program meeting DPH requirements;
- e. the nursing facility must
  - i. perform routine Personal Protective Equipment (PPE) and hand hygiene audits using a tool meeting DPH requirements;
  - ii. review findings with the facility's leadership team, and provide feedback to frontline staff; and
  - iii. document the audit results and provide such documentation to MassHealth or DPH upon request of either agency;
- f. the nursing facility must ensure that alcohol-based hand-rub (ABHR) stations
  - i. are available throughout the facility, including, but not limited to, outside and inside of every resident room and accessible to staff unless otherwise contraindicated and clearly documented as such; and
  - ii. contain ABHR that has been reviewed for expiration prior to placing around the facility and that is at least 60% alcohol;
- g. the nursing facility must comply with MassHealth and DPH requirements for surveillance testing, including requirements under 101 CMR 206.10(4): *COVID-19 Testing Supplemental Payment*, and found within the *DPH Surveillance Testing Guidance*, found at [www.mass.gov/doc/updates-to-long-term-care-surveillance-testing-6-10-2021/download](http://www.mass.gov/doc/updates-to-long-term-care-surveillance-testing-6-10-2021/download);
- h. the nursing facility must timely, accurately, and completely report all administered COVID-19 and influenza vaccine(s) to required reporting entities, including the Massachusetts Immunization Information System (MIIS) and the National Healthcare Safety Network (NHSN);
- i. the nursing facility must timely, accurately, and completely submit all required infection control-related data to DPH in the manner described in DPH guidance, including but not limited to Chapter 93 reports, submission of COVID-19 NHSN data, communicable disease reporting and DPH healthcare personnel influenza data;
- j. the nursing facility must monitor and regularly update its infection control practices based upon the most current infection control guidance issued by DPH, CMS, and the CDC; and
- k. the nursing facility must have a documented plan for ensuring the availability of and clinically-appropriate administration of therapeutics to treat residents with COVID-19, including monoclonal therapies and/or antiviral therapies.

## **Submission of Attestation of Compliance**

In order for MassHealth to make a COVID-19 Preparedness Payment to a nursing facility, the facility must meet criteria 1 through 3, above, as determined by MassHealth, and the facility's administrator or other appropriate representative must attest to the requirements of criteria 4, above, by January 15, 2023. The facility must attest using the fillable attestation form, which will be sent directly to nursing facilities. The text of the attestation form is attached to this bulletin for reference as Appendix A, but **only forms submitted by January 15, 2023, using the fillable attestation form link provided directly to nursing facilities will be accepted.** Email or hard copy submissions will not be considered properly submitted and will be disregarded.

MassHealth will review attestation submissions in the order they are submitted. Prior to making a COVID-19 Preparedness Payment to a nursing facility in accordance with this bulletin and 101 CMR 206.10(18)(b), MassHealth may, for any reason and at its discretion, request documentation or other information to verify information attested to by a nursing facility in the fillable attestation form.

## **Timing of Payments**

MassHealth will pay out COVID-19 Preparedness Payments to eligible nursing facilities in February 2023. Payments will be made in a single lump sum payment to each eligible nursing facility and will be made in accordance with the payment methodology established in 101 CMR 206.10(18)(b).

## **Enforcement for Non-Compliance**

Any nursing facility that receives a COVID-19 Preparedness Payment is subject to audits, inspections, or requests for information or documentation by EOHHS, DPH, or MassHealth regarding its compliance with the criteria established in this bulletin and 101 CMR 206.10(18).

If a nursing facility is determined to be out of compliance with the criteria established in this bulletin and 101 CMR 206.10(18), MassHealth will recoup the paid COVID-19 Preparedness Payments as an overpayment, pursuant to 130 CMR 450.237: *Overpayments: Determination*.

For example, recoupments will be implemented in late 2023 for any facility that received a COVID-19 Preparedness Payment but fails to achieve an HPPD of 3.58 for the quarter ending June 30, 2022, or an HPPD increase of at least 10% for the calendar quarter ending June 30, 2023, as such facility will have failed to meet criteria 1, above.

Further, for the avoidance of doubt, DPH survey actions are one of the oversight tools to be used for monitoring compliance with this bulletin. MassHealth will recoup a nursing facility's COVID-19 Preparedness Payments if MassHealth receives information from DPH that the facility is determined deficient or noncompliant with any requirements described above, through any survey, audit, or other review activity conducted by DPH. Nothing in this bulletin precludes DPH from taking further permissible enforcement action against a nursing facility, in accordance with its own rules and regulations.

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Additionally, if MassHealth determines that a nursing facility provider has made false or misleading representations through the submissions required by this bulletin, MassHealth may pursue sanctions against such provider under 130 CMR 450.238: *Sanctions: General*.

MassHealth will refer providers to the Medicaid Fraud Division in the Attorney General's Office, as appropriate.

### **Additional Information**

For the latest Massachusetts-specific information, visit the following link:  
[www.mass.gov/resource/information-on-the-outbreak-of-coronavirus-disease-2019-covid-19](http://www.mass.gov/resource/information-on-the-outbreak-of-coronavirus-disease-2019-covid-19).

The latest CMS guidance is available at the following link: [www.cms.gov/About-CMS/Agency-Information/Emergency/EPRO/Current-Emergencies/Current-Emergencies-page](http://www.cms.gov/About-CMS/Agency-Information/Emergency/EPRO/Current-Emergencies/Current-Emergencies-page).

The latest CDC guidance for health care professionals is available at the following link:  
[www.cdc.gov/coronavirus/2019-ncov/hcp/index.html](http://www.cdc.gov/coronavirus/2019-ncov/hcp/index.html).

The latest CDC guidance for nursing homes and other long-term care facilities is available at the following link: [www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html](http://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html).

### **Questions**

If you have any questions about the information in this bulletin, please email your inquiry to Meera Ramamoorthy, at [meera.e.ramamoorthy@mass.gov](mailto:meera.e.ramamoorthy@mass.gov).

### **MassHealth Website**

This bulletin is available on the [MassHealth Provider Bulletins](#) web page.

[Sign up](#) to receive email alerts when MassHealth issues new bulletins and transmittal letters.

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**Appendix A**

**Nursing Facility Provider Attestation  
to Receive COVID-19 Preparedness Payments**

I, \_\_\_\_\_, hereby certify under the pains and penalties of perjury that I am the administrator or other duly authorized officer or representative of \_\_\_\_\_, located at \_\_\_\_\_, (hereinafter “nursing facility”) and that nursing facility meets the criteria established by MassHealth Nursing Facility Bulletin 175, in accordance with 101 CMR 206.10(18), to receive COVID-19 Preparedness Payments. Specifically, I represent, warrant, and attest that:

**1. I have actual knowledge that the following conditions are currently satisfied.**

- a. The nursing facility offers all recommended COVID-19 and influenza vaccines to eligible residents and staff;
- b. The nursing facility has assigned one or more individuals with training in infection prevention and control to provide on-site management of the infection prevention and control program;
- c. The nursing facility
  - i. conducts *Infection Prevention and Control Assessments* using the CDC tool found at [www.cdc.gov/infectioncontrol/pdf/icar/litcf.pdf](http://www.cdc.gov/infectioncontrol/pdf/icar/litcf.pdf) at least quarterly;
  - ii. reviews such assessment findings with the facility’s leadership team; and
  - iii. makes actionable plans to address any improvement areas, which includes a leader responsible for each area identified;
- d. The nursing facility has established a written Respiratory Protection Program meeting DPH requirements;
- e. The nursing facility
  - iv. performs routine Personal Protective Equipment (PPE) and hand hygiene audits using a tool meeting DPH requirements;
  - v. reviews such audit findings with the facility’s leadership team, and provides feedback to frontline staff; and
  - vi. documents the audit results and provide such documentation to MassHealth or DPH upon request of either agency;
- f. The nursing facility ensures that alcohol-based hand-rub (ABHR) stations
  - vii. are available throughout the facility, including, but not limited to, outside and inside of every resident room and accessible to staff unless otherwise contraindicated and clearly documented as such; and
  - viii. contain ABHR that has been reviewed for expiration prior to placing around the facility and that is at least 60% alcohol;

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- g. The nursing facility complies with MassHealth and DPH requirements for surveillance testing, including requirements under 101 CMR 206.10(4): *COVID-19 Testing Supplemental Payment*, and found within the *DPH Surveillance Testing Guidance*, found at <https://www.mass.gov/doc/updates-to-long-term-care-surveillance-testing-6-10-2021/download>;
- h. The nursing facility timely, accurately, and completely reports all administered COVID-19 and influenza vaccine(s) to required reporting entities, including the Massachusetts Immunization Information System (MIIS) and the National Healthcare Safety Network (NHSN);
- i. The nursing facility timely, accurately, and completely submits all required infection control-related data to DPH in the manner described in DPH guidance, including but not limited to Chapter 93 reports, submission of COVID-19 NHSN data, communicable disease reporting and DPH healthcare personnel influenza data;
- j. The nursing facility monitors and regularly updates its infection control practices based upon the most current infection control guidance issued by DPH, CMS, and the CDC; and
- k. The nursing facility has a documented plan for ensuring the availability of and clinically-appropriate administration of therapeutics to treat residents with COVID-19, including monoclonal therapies and/or antiviral therapies.

**2. I commit to ensuring continued compliance with the requirements listed above as a condition of receiving COVID-19 preparedness payments.**

**Under the pains and penalties of perjury, I hereby certify that the above information is true and correct.**

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please submit this attestation using the fillable attestation form provided directly to the nursing facility by MassHealth.

The nursing facility should print or download the submitted attestation and maintain it in its files.